

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE )	ORDINANCE NO. 91-436A
METRO CODE TO CLARIFY THE PURPOSE )	
AND FUNCTION OF THE RATE REVIEW )	Introduced by
COMMITTEE, AND DECLARING AN )	Councilor Judy Wyers
EMERGENCY )	

WHEREAS, Metro Code Section 5.01.170 provides that the Council of the Metropolitan Service District shall appoint a five-member Rate Review Committee to gather information and provide recommendations for the establishment of rates for Metro-franchised solid waste facilities; and

WHEREAS, In practice, the Rate Review Committee has been asked to provide recommendations regarding the rates of Metro facilities as well as franchised facilities; and

WHEREAS, A recent Metro performance audit suggested that the functioning of the Rate Review Committee be clarified; and

WHEREAS, A budget note to the FY 1991-92 Metro Budget required the establishment of a task force to examine the rate review process; and

WHEREAS, The task force has completed its review and has recommended adoption of this Ordinance; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Metro Code is amended by adding the provisions contained in the attached Exhibit entitled "Ordinance No. 91-436A, New Metro Code Chapter 5.08," which is added to and made a part of this Ordinance by reference.

Section 2. Metro Code Section 5.01.170, "Rate Review Committee," is repealed. Subsequent sections shall be renumbered and other conforming amendments made as necessary.

Section 3. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this 26 day  
of November, 1991.

  
\_\_\_\_\_  
Tanya Collier, Presiding Officer

ATTEST:

  
\_\_\_\_\_  
Clerk of the Council

TSS  
1065a



METRO

## 1995 COUNCIL ROSTER

### DISTRICT 1

'98 Ruth McFarland  
3027 NE 24th Street  
Gresham, OR 97030  
Phone: 797-1547 (Metro)  
665-3263 (home)

### DISTRICT 5

'96 Ed Washington  
Council Office, 600 NE Grand  
Portland, OR 97232-2736  
Phone: 797-1546 (Metro)  
284-1743 (home)

### DISTRICT 2

'98 Don Morissette  
5000 SW Meadows Rd., Ste. 151  
Lake Oswego, OR 97035  
Phone: 797-1887 (Metro)  
684-9515 (off site)  
620-7485 (fax)

### DISTRICT 6

'96 Rod Monroe  
7702 SE 111th  
Portland, OR 97266  
Phone: 797-1552 (Metro)  
760-4310 (home)

### DISTRICT 3

'96 Jon Kvistad  
11595 SW North Dakota, #100  
Tigard, OR 97223  
Phone: 797-1549 (Metro)  
590-3282 (bus)  
590-3283 (fax)

### DISTRICT 7

'98 Patricia McCaig  
7615 SW Kelly  
Portland, OR 97219  
Phone: 797-1889 (Metro)  
768-9110 (home)

### DISTRICT 4

'98 Susan McLain  
2510 Mills Lane  
Forest Grove, OR 97116  
Phone: 797-1553 (Metro)  
357-9215 (home)

### NOTES

*Mail for Councilors may also be directed to  
Metro Council Office, 600 NE Grand Ave.,  
Portland, OR 97232-2736. Council phone:  
797-1540, fax: 797-1793.  
(Revised: 01/18/95)*

Ordinance No. 91-436A, New Metro Code Chapter 5.08

CHAPTER 5.08

RATE REVIEW COMMITTEE

SECTIONS:

- 5.08.010 Purpose
- 5.08.020 Authority and Responsibility
- 5.08.030 Committee Membership
- 5.08.040 Meetings and Scheduling
- 5.08.050 Rate Review Criteria

**5.08.010 Purpose:** The Rate Review Committee is established for the following purposes:

- (a) To enhance the credibility of solid waste disposal rates and the rate setting process;
- (b) To provide a rational, consistent, stable and predictable process for establishing solid waste disposal rates; and
- (c) To make recommendations to the Metro Council regarding proposed solid waste disposal rates.

**5.08.020 Authority and Responsibility:** The Rate Review Committee has the authority and responsibility to review and make recommendations to the Metro Council regarding:

- (a) Proposed solid waste disposal rates and charges at facilities owned, operated or under contract to Metro (Metro Code Chapter 5.02) and at Metro franchised facilities as provided under the terms of a franchise agreement (Metro Code Chapter 5.01);
- (b) All policy and technical issues related to solid waste disposal rate setting;
- (c) Direct and indirect expenses included in proposed solid waste disposal rates before the Committee; and
- (d) Any technical analysis of proposed rates or rate setting procedures, developed by Metro staff or a consultant to Metro, for facilities under the purview of the Committee.

**5.08.030 Committee Membership:**

(a) The Rate Review Committee shall be composed of seven members, as follows:

- (1) One Metro Councilor, who shall serve as Committee chair;
- (2) Two persons engaged in the business of hauling solid waste;
- (3) One person with business-related financial experience;
- (4) One person with experience in establishing rates;
- (5) One person involved with a local recycling or waste reduction program;  
and
- (6) One citizen ratepayer.

(b) The Metro Councilor serving on the Committee shall be appointed by the Council Presiding Officer. All other members shall be appointed by the Executive Officer, subject to confirmation by the Council.

(c) The Metro Councilor on the Committee shall serve a one-year term, subject to reappointment. The initial terms for the six non-Council members shall be two members for four years, two members for three years, and two members for two years, designation to be determined by lot. Following the initial term, terms for all non-Council members shall be four years each. A non-Council member may be reappointed for a consecutive term, not to exceed one full term. Appointments to fill vacancies shall be for the remainder of the vacant term.

**5.08.040 Meetings and Scheduling:**

(a) The Committee shall meet at least once every two months, unless a majority of the Committee establishes otherwise.

(b) All rates impacting Metro's budget shall be reviewed on a timeline intended to facilitate simultaneous Council adoption of the rates and proposed budget in early May. At the beginning of the annual process leading to adoption of Metro rates, the Solid Waste Department shall present to the Committee an overview of the process and prior rate-setting efforts, anticipated deadlines, and related data.

(c) Committee review of all other rates within the purview of the Committee shall be scheduled in a manner likely to result in timely consideration by the Council.

**5.08.050 Rate Review Criteria:**

(a) In reviewing and making recommendations to the Council regarding solid waste disposal rates impacting Metro's budget, the Committee shall apply criteria established by resolution of the Council. The Council shall review the established criteria annually, and make revisions as necessary. The Committee may recommend to the Council changes in established criteria deemed appropriate by the Committee.

(b) In reviewing and making recommendations to the Council regarding the rates charged by a Metro-franchised solid waste facility under the purview of the Committee, the Committee shall comply with Metro Code Section 5.01.180.

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Ordinance No. 91-436A, New Metro Code Chapter 5.08

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and
- (6) One citizen ratepayer.

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~~(d) The Committee shall choose its own officers and establish its own bylaws.~~

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(c) Committee review of all other rates within the purview of the Committee shall be scheduled in a manner likely to result in timely consideration by the Council.

**5.08.050 Rate Review Criteria:**

(a) In reviewing and making recommendations to the Council regarding solid waste disposal rates impacting Metro's budget, the Committee shall apply criteria established by resolution of the Council. The Council shall review the established criteria annually, and make revisions as necessary. The Committee may recommend to the Council changes in established criteria deemed appropriate by the Committee.

(b) In reviewing and making recommendations to the Council regarding the rates charged by a Metro-franchised solid waste facility under the purview of the Committee, the Committee shall comply with Metro Code Section 5.01.180.

1065a

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 91-436A, FOR THE PURPOSE OF AMENDING THE METRO CODE TO CLARIFY THE PURPOSE AND FUNCTION OF THE RATE REVIEW COMMITTEE, AND DECLARING AN EMERGENCY

-----  
Date: November 20, 1991

Presented by: Councilor Wyers

Committee Recommendation: At the November 19 meeting, the Committee voted unanimously to recommend Council adoption of Ordinance No. 91-436. Voting in favor: Councilors DeJardin, Gardner, McFarland, McLain and Wyers.

Committee Issues/Discussion: John Houser, Council Analyst, presented background on the development of the ordinance. He noted that Ordinance No. 91-1485 had established a task force to review the role and functions of the rate review committee. The task force held several meetings leading to the preparation of the ordinance.

Houser reviewed the contents of ordinance which include: 1) clearly outlining the purpose and authority of the committee; 2) expanding committee membership to specifically include a councilor, a citizen ratepayer and an individual involved with local waste reduction or recycling programs; and 3) establishing an appointment and confirmation process and terms of office for members. The ordinance also provides that rates that impact Metro's budget will be reviewed on a timeline that will permit simultaneous Council consideration of the budget and proposed rates in early May. Finally, the ordinance provides that the Council shall adopt criteria for the committee to use in evaluating rate proposals and annually review these criteria.

Councilor McFarland moved to amend the ordinance to provide that the Councilor member would serve as chair. Councilor Wyers supported the motion, noting that this approach has worked well for the 1% for recycling committee. She observed that a councilor would more familiar with the organization and conducting of meetings including the development of agendas. Councilor DeJardin opposed the motion, noting that it might limit citizen involvement and imply the Metro was keeping control of the rate setting process. The motion passed with Councilor DeJardin opposed.

Councilor McLain questioned whether it was advisable to require annual revision of the criteria used by the committee and what the nature of the review process would be. Todd Sadlo, Office of General Counsel, replied that the Council could set the scope and nature of the review process and that the Council was not obliged to make changes as a result of the review process.



**METRO**

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

# Memorandum

To: Solid Waste Committee Members

From: John Houser, Council Analyst

Date: November 13, 1991

Re: Ordinance No. 91-436, For the Purpose of Amending the Metro Code to Clarify the Purpose and Function of the Rate Review Committee, and Declaring an Emergency

Ordinance No. 91-436 is scheduled for consideration by the Committee at the November 19 meeting.

## Background

The Metro Code currently provides for a five-member Rate Review Committee to gather information and make recommendations for the establishment of solid waste disposal rates at Metro-franchised solid waste facilities. In practice, the committee also has reviewed and made recommendations concerning proposed rates at Metro facilities.

In response to concerns expressed in the Peat Marwick performance audit and by several current rate review committee members, a budget note for the current fiscal year provided for the establishment of a task force to review the role and functions of the rate review committee. Resolution No. 91-1485 established the task force to examine issues relating to: 1) the purpose and responsibilities of the committee, 2) setting standards for reviewing rate proposals, 3) the committee membership and appointment process, 4) committee staffing, 5) rate review and budget preparation timelines, and 6) access to information by the committee.

## Ordinance Provisions

The ordinance creates a new Code chapter (5.08) to outline the role and functions of the Rate Review Committee. The ordinance outlines the purpose, authority and responsibilities of the committee.

The committee would be charged with reviewing and making recommendations to the Council related to the following:

- 1) rates and charges at both: a) facilities owned, operated or under contract to Metro, and b) Metro franchised facilities for which Metro sets rates,
- 2) all policy and technical issues related to solid waste

disposal rate setting,

3) direct and indirect expenses included in proposed disposal rates, and

4) any technical analysis of proposed rates or rate setting procedures, developed by Metro staff or a Metro consultant (note: the task force generally agreed that Metro should consider using a consultant to review the technical elements of Metro's rate setting procedures. Many local governments use such consultants with reported success.).

The membership of the existing committee would be broadened to include those with additional perspectives on the rate-setting process. The revised seven-member committee would include:

1) one Metro Councilor (to provide liaison between the Council and the Committee)

2) two solid waste haulers,

3) one person with business-related financial experience,

4) one person with experience in rate-setting,

5) one person involved with a local recycling or waste reduction program, and

6) one citizen ratepayer.

The committee members would be appointed by the Executive Officer and confirmed by the Council. The Metro Councilor would serve a one-year term, subject to reappointment. The initial terms of the remaining members would be staggered, with two serving four-year terms, two serving three-year terms and two serving two-year terms. The non-Council members could be reappointed to one additional full term of four years.

The ordinance provides that at the beginning of the annual rate-setting process the Solid Waste Department provide a briefing to the committee containing specified information. The timelines for the rate-setting process for Metro facilities would set to facilitate simultaneous Council adoption of the rates and the proposed budget in early May. Such simultaneous consideration would allow any proposed rates to be adjusted based on changes in the proposed budget. Under current practice, the rates are set in March and the budget is not approved until early May.

The ordinance further provides that the Council shall annually set the criteria by which the committee is to review rate proposals. The committee may recommend changes in the criteria based on its review. Proposed criteria for the current fiscal year are included in Resolution No. 91-1533, which also will be considered at the November 19 meeting.



OREGON GRADUATE INSTITUTE  
—OF—  
SCIENCE & TECHNOLOGY

19600 N.W. von Neumann Drive  
Beaverton, Oregon 97006-1999 USA  
Phone 503/690-1028 FAX 503/690-1029

November 5, 1991

~~Councilor Judy Wyers~~  
John Houser, Council Analyst  
METRO  
2000 SW First Avenue  
Portland, OR 97201-5398

Judy & John,

I have read the draft of the Ordinance on the Rate Review Committee and I have the following minor comments:

1. Under 5.08.030 Committee Membership I would delete (a)(4), (a)(5), and (a)(6) and change (a)(3) to read as follows:

(3) **Four independent citizen ratepayers incorporating in these appointees a balance of the following experience, training, and interests; Utility rate setting; business related finance or accounting; waste reduction; and local recycling.**

2. Also under 5.08.030 Committee Membership, I would recommend changing (d) to read as follows:

(d) **The Committee shall annually elect a chair and a vice chair and establish and publish its own rules of procedure.**

3. Under 5.08.040 Meetings and Scheduling, I recommend adding the following sentence to (b):

**Also at the beginning of the annual process, the Council shall present to the Committee, a written compilation of METRO policy currently in effect, concerning solid waste rates.**

4. Also under 5.08.040 Meetings and Scheduling, I would add (d) as follows:

- (d) **The Council shall approve in the annual budgeting process, sufficient funding to provide adequate staff support for the Committee. The expense associated with this support may be included in the calculation of the rate base.**

I hope this helps in your process. Let me know how it goes.

Cordially,

A handwritten signature in cursive script, appearing to read "Ross".

Ross M. Hall

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE )	ORDINANCE NO. 91-436
METRO CODE TO CLARIFY THE PURPOSE )	
AND FUNCTION OF THE RATE REVIEW )	Introduced by
COMMITTEE, AND DECLARING AN )	Councilor Judy Wyers
EMERGENCY )	

WHEREAS, Metro Code Section 5.01.170 provides that the Council of the Metropolitan Service District shall appoint a five-member Rate Review Committee to gather information and provide recommendations for the establishment of rates for Metro-franchised solid waste facilities; and

WHEREAS, In practice, the Rate Review Committee has been asked to provide recommendations regarding the rates of Metro facilities as well as franchised facilities; and

WHEREAS, A recent Metro performance audit suggested that the functioning of the Rate Review Committee be clarified; and

WHEREAS, A budget note to the FY 1991-92 Metro Budget required the establishment of a task force to examine the rate review process; and

WHEREAS, The task force has completed its review and has recommended adoption of this Ordinance; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

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Section 2. Metro Code Section 5.01.170, "Rate Review Committee," is repealed. Subsequent sections shall be renumbered and other conforming amendments made as necessary.

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ADOPTED by the Council of the Metropolitan Service District this \_\_\_\_\_ day  
of \_\_\_\_\_, 1991.

\_\_\_\_\_  
Tanya Collier, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

TSS  
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CHAPTER 5.08

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(b) In reviewing and making recommendations to the Council regarding the rates charged by a Metro-franchised solid waste facility under the purview of the Committee, the Committee shall comply with Metro Code Section 5.01.180.

## LICENSING STANDARDS FOR YARD DEBRIS PROCESSING AND YARD DEBRIS RELOAD FACILITIES

### 1. Purpose, Authority and Scope

#### 1.1 Purpose

- (a) The purpose of this Chapter is to establish performance standards for yard debris processing and yard debris reload facilities operating in the District through a regional licensing program. The program will include problem resolution through intergovernmental cooperation, technical assistance, and enforcement measures.
- (b) The Council finds that the District has limited land and resources for the disposal of solid waste. It is the responsibility of Metro to provide and protect such resources and to do so requires that Metro Franchise, License, or Permit disposal sites, transfer stations, processing facilities and resource recovery facilities.
- (c) To protect the health, safety, and welfare of the District's residents, the Council declares it to be the public policy of the District and purpose of this chapter to establish a licensing program for facilities that process and reload yard debris in the District in order to:
  - 1) Establish standards that can be implemented on a regional level to help ensure the stability of the regional yard debris recycling system.
  - 2) Assist local governments in managing the impacts of yard debris processing facilities through a licensing program that is responsive to the risks and benefits associated with these facilities.
  - 3) The licensing program is intended to increase the confidence that citizens and local governments have in these facilities by minimizing the potential for nuisance complaints and alleviating negative public perception of these facilities.

#### 1.2 Authority and Scope

- (a) This document will implement those provisions of the Code relating to licensing of yard debris processing and reload facilities. Nothing in this Chapter is intended to limit the power of any federal, state, or local agency to enforce any provision of the law that it is authorized or required to enforce or administer.
- (b) The provisions in this Chapter apply to all yard debris processing and reload facilities operating in the District, except those expressly exempted pursuant to Section 4 - Excluded Operations and Facilities.

(c) Yard debris reload facilities and operations are exempt from the following sections:

- Section 6c, 6e, and 6f(3);
- Section 7e, 7f, and 7h; and
- Section 8a (7, 8, 10, and 11).

(d) Biological decomposition of organic material can be either a naturally occurring or artificially controlled process. Nothing in this Chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials. An activity that produces material that will be sold or given-away based on biological decomposition that has occurred to the material shall not be considered inadvertent composting.

(e) Nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

## 2. Definitions

(a) "Code" means the Metro Code.

(b) "Compost" means the stabilized and sanitized product of composting, which has undergone an initial rapid stage of decomposition and is in the process of humification (curing), and should be suitable for plant growth.

(c) "Composting" means the biological treatment process by which microorganisms decompose the organic fraction of the waste, producing compost.

(d) "Hazardous waste" has the meaning provided in ORS 466.005;

(e) "Mixed solid waste" means solid waste containing a variety of waste material, some of which may or may not be considered recyclable.

(f) "Processing" means the controlled method or system of altering the form, condition or content of yard debris utilizing both mechanical and biological methods. Includes composting (aerobic and anaerobic methods), fermentation, and vermicomposting (of yard debris only).

(g) "Solid waste" means all putrescible and nonputrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead

animals, infectious waste as defined in ORS 459.387, petroleum-contaminated soils and other wastes; but the term does not include:

- 1) Hazardous wastes as defined in ORS 466.005;
  - 2) Radioactive wastes as defined in ORS 469.300;
  - 3) Materials used for fertilizer or for other productive purposes or which are salvageable as such or materials which are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals; or
  - 4) Explosives
- (h) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. Includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other similar vegetative waste. Does not include construction and demolition debris, painted or treated wood.
- (i) "Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

### **3. Licensing Application Compliance Dates**

- (a) Operators of proposed facilities shall submit applications for licensing and shall comply with the licensing standards and requirements, by the effective date of the licensing standards in this chapter.
- (b) Operators of existing facilities shall submit an application for licensing, and demonstrate compliance with the applicable standards and requirements within eighteen (18) months after the effective date of the licensing standards in this chapter.
- (c) Applications for Yard Debris Licenses shall be as specified by the Executive Officer.

### **4. Excluded Operations and Facilities**

- (a) Residences, parks, community gardens and homeowner associations are excluded operations. In addition, universities, schools, hospitals, golf courses, industrial parks, and other similar facilities are excluded operations if the yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
- (b) Chipping and grinding of wood wastes (e.g. untreated lumber, wood pallets) are excluded operations, unless such chipped materials are composted at the site following chipping or grinding.
- (c) Solid waste transfer stations and Metro franchised material recovery facilities are excluded facilities, except to the extent that these licensing requirements are referenced in the franchise.

- (d) Nothing in this Section precludes Metro from inspecting an excluded operation to verify that the operation is being conducted in a manner that qualifies as an excluded activity or from taking any appropriate enforcement action.

## **5. Authorized and Prohibited Solid Wastes**

- (a) Licensee is authorized to accept loads of yard debris for processing at the facility. The licensee may also take in other source separated material if in compliance and consistent with other federal, state and local regulations.
- (b) Licensee shall not accept hazardous waste. Any hazardous waste inadvertently received shall be handled, stored, and removed pursuant to state and federal regulations.
- (c) Licensee is prohibited from accepting mixed solid waste, but may accept loads of mixed yard debris and wood wastes (e.g. untreated lumber, wood pallets).

## **6. General Facility Design Requirements & Design Plan**

- (a) The Facility Design Plan shall include the following drawings and diagrams:
  - 1) Site plan showing approximate dimensions of the proposed receiving, processing, production, curing and storage areas.
  - 2) Landscape plan showing the location, size and type of plantings, fences, berms, and existing trees to remain and/or to be removed (required for only new or relocating facilities).
  - 3) Drawings of the site that indicate location of initial and permanent roads; buildings and equipment to be installed; sewer and water lines; and storm water system. The drawings shall show final grade contours (required for only new or relocating facilities)
- (b). The facility must be designed and constructed in a manner suitable for maintenance and processing operations, including visual inspection of piling areas and fire fighting operations.
- (c). Facility design plan shall address management of storm water. Methods must be consistent with storm water system standards of the local jurisdiction.
  - 1) The facility must be designed and constructed so that precipitation run-on is diverted around the processing area. The run-off from the facility resulting from precipitation shall be controlled (required for only new or relocating facilities).
- (d). Facility design plan shall address:
  - 1) Effective barriers to unauthorized entry and dumping (fencing, gates, locks);
  - 2) All-weather access roads to the site;
  - 3) Appropriate signs (at facility entrance, directing traffic flow, public information);
  - 4) Access to scales, if applicable;

- (e) Facility shall have sufficient processing capacity to handle projected incoming volumes of yard debris.
- (f) Facility design shall address specific storage issues, including:
  - 1) Capacity for incoming wastes waiting to be processed;
  - 2) Capacity for proper handling, storage, and removal of hazardous or other non-permitted wastes delivered to or generated by the facility; and
  - 3) Capacity for finished product storage.

## 7. General Operating Requirements

- (a) All activities shall be conducted in a manner that minimizes or prevents vectors, odor impacts, dust, and noise impacts.
- (b) Facility grounds shall be cleaned of litter at least weekly.
- (c) Random load checks of feedstocks for contaminants shall be conducted by the operator.
- (d) Storage and handling capacities shall not be exceeded.
- (e) Compost piles and windrows shall be spaced to facilitate mixing and aeration.
- (f) Windrow, compost pile, and/or active processing area dimensions shall not exceed the design specifications of the facility's equipment.
- (g) Incidental non-compostables shall be properly stored and removed from the facility on a regular basis to avoid nuisance conditions, or at a frequency approved in the license agreement.
- (h) Incidental wastes and feedstocks shall be stored separately from active, stabilizing, stabilized, curing, cured feedstock areas.
- (i) Surrounding fencing, gates, and/or other natural or artificial barriers shall be maintained to discourage unauthorized human or animal access to the facility.
- (j) The operator shall provide fire prevention, protection, and control measures, including but not limited to, temperature monitoring of windrows, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the composting pad/processing area.
- (k) The operator shall begin processing incoming feedstocks in a time frame that does not create potential for a nuisance, odor, fire, or vectors, or as specified in the license agreement.



- (l) All drainage, leachate control, and diversion systems shall be managed and maintained in good working order.
- (m) All facility road surfaces and traffic control signs shall be maintained.
- (n) Vehicles containing yard debris feedstock/waste shall not be parked on public streets or roads except under emergency conditions. Adequate off-street parking facilities for transport vehicles shall be provided.
- (o) Legible signs at all public entrances to the facility shall be posted and include the following information:
  - 1) The name of the facility,
  - 2) The name of the operator,
  - 3) Facility hours of operation
  - 4) List or statement of materials that will and will not be accepted, if open to the public,
  - 5) Schedule of charges, if applicable
  - 6) The phone number where operator or designee can be reached in case of an emergency; and
  - 7) Any other information as required by the license agreement and/or local government sign code.

## 8. Processing Operations Plan

- (a) All activities at a licensed facility must be conducted in accordance with the processing operations plan containing the following information, as well as any additional information required by Metro:
  - 1) Designation of personnel, by title, responsible for operation, control and maintenance of the facility;
  - 2) A description of the anticipated quantity and variation throughout the year of waste to be received;
  - 3) Methods for measuring and keeping records of incoming waste;
  - 4) Methods for encouraging waste delivery in covered loads;
  - 5) Methods to control the types of waste received, and methods for removing, recovering and disposing of non-compostables;
  - 6) Designation of disposal sites for non-compostable wastes;
  - 7) Management procedures that will be used in processing, which must include:
    - A) A general description of any treatment the wastes will receive prior to processing (e.g., chipping, shredding) and the maximum length of time required to process each day's receipt of waste into windrows or other piles;
    - B) The specifications to which the windrows or other piles will be constructed (width, height, and length) and calculation of the capacity of the facility;

- C) An estimate of the length of time necessary to complete the process.
- 8) Metro may request additional process management procedures. Proprietary information will be submitted on a confidential basis.
- 9) Methods to control noise, vectors, dust and litter.
- 10) Methods for monitoring and adjusting temperature, oxygen level and moisture level of the material during processing.
- 11) General plans for marketing the finished product.

## 9. Odor Minimization Plan.

- (a) The operator shall take specific measures to control odors so as not to cause or contribute to a violation of the license agreement. Specific measures an operator should take to control odor include but are not limited to adherence to the contents of the odor minimization plan required below.
  - 1) The operator shall have an odor minimization plan. The plan must include methods to minimize, manage and monitor all odors, including odors produced by grass clippings. The plan must include:
    - (A) A management plan for malodorous loads;
    - (B) Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility;
    - (C) Additional odor-minimizing measures, which may include the following:
      - i) Avoidance of anaerobic conditions in the composting material;
      - ii) Use of mixing for favorable composting conditions;
      - iii) Formation of windrow or other piles into a size and shape favorable to minimizing odors; and
      - iv) Use of end-product compost as cover to act as a filter during early stages of composting.
    - (D) Specification of a readily-available supply of bulking agents, additives or odor control agents;
    - (E) Procedures for avoiding delay in processing and managing yard debris during all weather conditions;
    - (F) Methods for taking into consideration the following factors prior to turning or moving composted material:
      - 1) Time of day;
      - 2) Wind direction;
      - 3) Percent moisture;

- 4) Estimated odor potential; and
  - 5) Degree of maturity.
- (b) Grass clippings must be processed in a timely manner to avoid nuisance conditions. Incoming leaves, brush or woody landscape waste may be stored in designated areas for use as a carbon source and bulking agent, rather than being processed into windrows or other piles.
- (c) If odors become a significant source of nuisance complaints, processor shall work with a Metro appointed odor complaint panel. The odor complaint panel will investigate odor complaints to determine their validity and sources and will help the processor with solutions to the nuisance complaints. The odor complaint panel may consist of representatives from Metro, DEQ, the local government, citizen representatives and the processing industry.

## 10. Operation and Facility Records

- (a) Licensee shall effectively monitor facility operation and maintain accurate records of the following information:
- (1) Estimated amount of feedstock received and quantity of product produced at the facility. Records shall be reported to Metro no later than thirty (30) days following the end of each quarter. The report shall be signed and certified as accurate by an authorized representative of licensee.
  - (2) Records of any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.
  - (3) Records of public nuisance complaints (e.g. noise, dust, vibrations, litter) received by the operator, including:
    - A) The nature of the complaint;
    - B) The date the complaint was received; the name, address, and telephone number of the person or persons making the complaint; and
    - C) any actions taken to respond to the complaint.
  - (4) For every odor complaint received, the licensee shall record the date, time, and nature of any action taken in response to an odor complaint, and record such information within one business day after receiving the complaint. Records of such information shall be made available to Metro and local governments upon request.
- (b) The licensee shall submit to Metro duplicate copies of regulatory information submitted to the DEQ and local jurisdictions pertaining to the facility, at the same time of submittal to DEQ and/or local jurisdiction.

## 11. Closure

- (a) Unless otherwise authorized in a facility license, all yard debris, composting material, end-product, and other solid wastes must be removed from the facility within 180 days following the beginning of closure.
- (b) The facility operator shall close the facility in a manner which eliminates the release of yard debris leachate and composting constituents to the groundwater or surface waters or to the atmosphere to the extent necessary to prevent threats to human health or the environment.
- (c) Within 30 days of completion of closure, the operator shall file a report with Metro verifying that closure was completed in accordance with this Section.

## 12. Term of License and Annual License Fees

- (a) The term of the license shall be established by the Executive Officer not to exceed five (5) years. If a license is issued for less than five (5) years, the reason(s) shall be set forth in the licensing agreement.
- (b) Licensee shall pay an annual license fee. In order to keep costs at a minimum, and so as to not encourage deliveries outside the district, the fee shall be based on a minimum cost for service basis and shall not exceed \$300 per year. The fee shall be delivered to Metro within thirty (30) days of the effective date of this License and each year thereafter.

## 13. Insurance

- (a) Licensee shall purchase and maintain the following types of insurance, covering Licensee, its employees, and agents:
  - 1) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
  - 2) Automobile bodily injury and property damage liability insurance.
- (b) Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- (c) Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro prior to the change or cancellation.
- (d) A license shall specify that licensee, its contractors, if any, and all employers under this license are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject

workers. Licensee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

#### **14. Indemnification**

Licensee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with licensee's performance under this license, including patent infringement and any claims or disputes involving subcontractors. Licensee shall not assume liability for any negligent or intentionally wrongful act of Metro, its officers, agents or employees.

#### **15. Compliance With Law**

Licensee shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license. All conditions imposed on the operation of the facility by federal, state or local governments or agencies having jurisdiction over the facility are part of this license by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to the license, as well as any existing at the time of issuance of this license and not attached, and permits or conditions issued or modified during the term of this license.

#### **16. Enforcement of License Provisions**

- (a) The Executive Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke a license as provided in this section. If, in the opinion of the Executive Officer, there is sufficient evidence to suspend, modify, or to revoke a license, the Executive Officer shall notify the licensee in writing of the alleged violation, and the necessary steps to be taken to cure the violation. Upon a finding that violation exists and that the licensee is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the Executive Officer may provide notice to the licensee that the license is suspended, modified or revoked.
- (b) The notice authorized by this subsection shall be based upon the Executive Officer's finding that the licensee has:
  - 1) Violated the license agreement, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or
  - 2) The licensee has misrepresented material facts or information in the license application, annual operating report, or other information required to be submitted to Metro;
  - 3) Failed to pay when due the fees required to be paid under this chapter; or
  - 4) Been found to be in violation of a city or county solid waste management ordinance if such ordinances require licensees to comply with the Metro Code (solid waste facility regulation).

- (c) Except as provided in subsection (d) of this section, the Executive Officer's revocation, modification or suspension of a license shall not become effective until the licensee has been afforded an opportunity to request a contested case hearing and on opportunity for a contested case hearing if one is requested.
- (d) Upon finding of serious danger to the public health or safety as a result of the actions or inaction of a licensee under this chapter, the Executive Officer may in accordance with Code Chapter 2.05 immediately suspend the license and may take whatever steps may be necessary to abate the danger.
- (e) Upon revocation or refusal to renew the license all rights of the licensee in the license shall immediately be divested.

## 17. Appeals

- (a) Any applicant licensee is entitled to a contested case hearing pursuant to Metro Code Chapter 2.05 upon the Executive Officer's suspension, modification or revocation or refusal by the Council or Executive Officer, as appropriate, to issue, renew or transfer a license or grant a variance, as follows:
  - 1) Except as provided in subsection (3) of this section, the Executive Officer's refusal to renew a license by the Council or Executive Officer, as appropriate, shall not become effective until the licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.
  - 2) The refusal by the Council or Executive Officer, as appropriate, to grant a variance, or to issue or transfer a license shall be effective immediately. The licensee or applicant may request a hearing on such refusal within thirty (30) days of notice of such refusal.
  - 3) Upon finding of serious danger to the public health or safety, the Executive Officer may suspend a license or the Council or Executive Officer, as appropriate, may refuse to renew a license and such action shall be effective immediately. If a license renewal is refused effective immediately, the licensee shall have thirty (30) days from the date of such action to request a contested case hearing.

## 18. Disposal Rates and Fees

- (a) In accordance with the variance granted by the Metro Council, the rates charged at this Facility shall be exempt from Metro rate setting.
- (b) Licensee is exempted from collecting and remitting Metro Fees on waste received at the Facility. Licensee is fully responsible for paying all costs associated with disposal of residual material generated at the Facility. Licensee shall obtain a non-system license prior to disposal of residuals at any facility not designated by Metro.

- (c) The Licensee shall adhere to the following conditions with regard to disposal rates charged at the Facility:
- 1) Licensee may modify rates to be charged on a continuing basis as market demands may dictate. Rate schedules should be provided to Metro on a regular basis, and shall be provided to Metro on request.
  - 2) Public rates charged at the facility shall be posted on a sign near where fees are collected. Rates and disposal classifications established by the licensee shall be reasonable and nondiscriminatory.

## 19. General Conditions

- (a) A licensee shall be responsible for ensuring that its contractors and agents operate in compliance with the terms and conditions of this license.
- (b) The granting of a license shall not vest any right or privilege in the licensee to receive specific quantities of solid waste during the term of the license.
- (c) The power and right to regulate, in the public interest, the exercise of the privileges granted by this license shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against licensee.
- (d) This license may not be transferred or assigned without the prior written approval of Metro, which will not be unreasonably withheld.
- (e) To be effective, a waiver of any term or condition of a license must be in writing, signed by the Executive Officer. Waiver of a term or condition of a license shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- (f) The license shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- (g) If any provision of the license shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this license shall not be affected.
- (h) Authorized representatives of Metro shall be permitted access to the premises of the facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this license. Access to inspect is authorized during all business hours.

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## ATTACHMENT B

### Summary of Key Issues Licensing Program for Yard Debris Processing and Yard Debris Reload Facilities

#### Background

Recent attempts to site a yard debris composting facility in Clackamas County resulted in a land use decision that requires these facilities to completely enclose their operations. This requirement is considered unusually restrictive and would, in effect, prohibit a yard debris processing operation from siting or relocating in Clackamas County. This situation does not appear to be unique. Many facilities in the region are located in areas that are now becoming highly urbanized. As a result, these facilities are increasingly being noticed for their potential to create a public nuisance.

In order to begin developing solutions to this situation, a regional discussion group was convened to discuss yard debris processing facilities and their associated impacts. Major issues included:

- How to maintain programs, provide safeguards for the existing system and provide additional security for the future stability of the yard debris recycling system (note that the yard debris recycling rate in the Metro region increased from 23% in 1987 to 70% (110,000 tons) in 1993).
- How the confidence of local governments and the public could be restored so that siting or relocating these facilities does not become prohibitively expensive.

It was recognized early on that without the assistance and support from the local yard debris composting industry, it would not be possible to implement effective solutions. From that point forward, all group discussions included industry and local government representatives (including the DEQ). Great emphasis was placed on solutions that would be effective as well as acceptable to the yard debris processing industry.

A model ordinance approach for local government adoption was developed and reviewed by local governments. It was concluded that this approach would not be effective for the existing eighteen facilities in the region. Therefore, the discussion group recommended that the facility operational standards be developed as a regional licensing program.

#### Regional Discussion Group Endorsement

The licensing program proposal was voted on and endorsed by a clear majority of the discussion group participants on two separate occasions. Endorsement of the licensing proposal by the regional discussion group was based on the following:

- The licensing program addresses problems on a regional level. It is fair to all processors in region and will be beneficial to the industry. It helps maintain programs and provides needed safeguards for the future security of the system.



- A local government model ordinance approach will not work for existing facilities. A voluntary program would not be effective on a regional scale, and would not help create a level playing field.
- The licensing program is a framework for problem identification and resolution. Surrounding land uses and growth in the region will lead to more public scrutiny and objections to these facilities. They may be forced out of operation, especially the smaller to medium sized operations.
- The program enforcement measures are viewed as important elements by both processors and local governments. The program will help legitimate processors while limiting the fly-by-night processors trying to make a fast profit and creating nuisance conditions that give the industry a bad reputation.

### Licensing Program Concerns

There are concerns about implementing a regional licensing program. These concerns are summarized below, and are followed by responses in italics.

1. The problem is zoning and facility issues should be addressed with local government land use planners. Further, a voluntary and/or model ordinance approach should be used rather than a region-wide licensing program.

*The regional discussion group made it clear that zoning is not the only issue that needs to be addressed. Operational issues, reporting requirements, and problem resolution and enforcement became an integral part of the equation.*

*The local government model ordinance approach was rejected by the group and determined to be ineffective for the 18 existing facilities in the region. This is also true for a voluntary program. The discussion group agreed that any program should foster a level playing field, and that it be implemented on a regional level.*

*Zoning ordinances typically can not include the kind of operational standards and reporting requirements that are now needed to ensure that these types of facilities do not become public nuisances. This is particularly true in light of the sustained growth that is projected for our region, as these facilities get "pushed out."*

*One element of the licensing program is to work with local governments to ensure that development codes and zoning ordinances adequately address these facilities. In addition, the group recommended that a special work group be set up to discuss the licensing program with land use planners and nuisance code enforcement personnel.*

2. The DEQ could implement a state-wide permit program for yard debris processors.

*The DEQ has made it clear that they do not intend to implement a state-wide permit program. However, the DEQ has indicated that they support the proposed regional licensing program.*

3. Product quality standards for compost are all that may be necessary.

*Metro has implemented a product quality standards program for yard debris compost (Earth-Wise Compost Designation). This program was set-up for marketing purposes and is voluntary (the program costs \$1,000 per year to participate). The product quality standards do not address facility operational issues, which are the source of concern. It may be possible to link the two programs in the future, but for now it has been recommended that they remain separate.*

4. Counties with land outside the Metro boundary will have no way of encouraging these facilities to participate in the licensing program. Facilities may relocate outside the Metro boundary to escape the licensing requirements.

*An important element of the licensing program is to work with the local government land use planners to encourage siting standards that set the conditions for approval on participation in the licensing program. In this way, facilities outside the Metro boundary will be able to participate in the program.*

*It is important to note two important considerations: 1) processors prefer to be located close to the source of their feedstock and markets; and 2) zoning outside the Metro boundary tends to be predominantly rural or agricultural in nature and is generally not favorable for siting these types of commercial operations, unless they are strictly in conjunction with agricultural uses.*

5. Local governments will not be able to amend their contracts with franchised haulers, requiring them to take yard debris from municipal curbside programs to approved (licensed) facilities.

*The City of Portland is currently doing this. For example, they provide a list of approved facilities to their haulers who may then select the most convenient facility for their use. It is primarily intended to ensure that, at a minimum, yard debris that the public source-separates for recycling through municipal programs is processed in a responsible manner.*

6. Will Metro have to hire additional staff to administer a licensing program? Will the processors be required to pay for these costs through the license fees?

*Implementation of a licensing program will not require Metro to hire additional staff. Existing staff will absorb the program responsibilities. However, it will be necessary to contract with a consultant to assist staff with special circumstances. The consultant contract for the initial licensing phase is estimated at \$7,000, and \$2,000 thereafter for special circumstance consultation (if needed).*

*The annual licensing fee paid by the processors (which is similar to a franchise fee) will help defray some of the costs of the licensing program. Annual licensing fees are set by the Metro Council. However, the regional discussion group recommends that the fees be no more than \$300 per year. High licensing fees could drive processors out of the region.*

7. How will local governments be involved in the licensing program?

*Local governments are typically the first to receive nuisance complaints. Therefore, Metro will coordinate the licensing program with local government land use planners, solid waste and recycling coordinators, and nuisance code administrators. Metro is committed to meet with local governments to develop a specific plan for responding to nuisance complaints and other licensing program issues.*

*A key objective of the licensing program is to minimize potential nuisance conditions and encourage the processor, local government, and Metro to work together to resolve issues through a facility and operational review process. Therefore, the licensing program will take a proactive, cooperative approach to ensure intergovernmental coordination. Information on facilities will be shared, and Metro will consult with the local jurisdiction before providing technical assistance or initiating enforcement action. Processors will be closely involved throughout the process.*

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## Attachment C - Licensing Program Regulatory Table

The following table summarizes the key regulatory concerns regarding the proposed yard debris processing and reload facility licensing program.

ISSUES	METRO	LOCAL GOVERNMENT	DEQ
Siting	Siting by private initiative. Metro sets up a regional workgroup to review zoning issues.	Local land use permit process. Ensure that zoning ordinances and development codes do not effectively prohibit these facilities.  Local governments to work with a regional workgroup to review and discuss zoning issues.	NA
Licensing	Metro license required for all facilities within Metro boundary. Voluntary outside boundary.  The program will include problem resolution through intergovernmental cooperation, technical assistance and enforcement measures (see next page for details).	Local jurisdiction participates in program. Nuisance/code violations are handled locally. Metro is notified and may be asked for assistance, if warranted.	NA
Operational Standards	Addressed through the license agreement.	Many operational concerns are not addressed through the land use permit process.	May provide technical assistance.
License Fees	Fees are set by Metro Council. Recommendations in the draft licensing standards are that fees should not exceed \$300 per year.	NA	NA
Collection	Metro will not direct yard debris to processing facilities.	Facility designation. Local governments provide franchised haulers with a list of approved, licensed facilities where they may take curbside yard debris for processing or reload.	NA

ISSUES	Inside Metro Boundary	Outside Metro Boundary	DEQ
<p><b>Problem Resolution and Enforcement</b></p>	<p><u>Intergovernmental Coordination</u> Metro, local governments, DEQ share information on facilities. If nuisance complaints warrant Metro action, local governments can request assistance from Metro. Metro may independently monitor facilities and take appropriate action in cooperation with the local jurisdiction. Processor will be closely involved throughout the process.</p> <p><u>Technical Assistance</u> Metro, local governments, DEQ and the processor work together to resolve issues through a facility and operational review.</p> <p><u>Enforcement</u> If issues can not be resolved, Metro can take enforcement action per Metro Code. Enforcement may include:</p> <ul style="list-style-type: none"> <li>• Request corrective action</li> <li>• Notice of intent to assess fines.</li> <li>• Contested case proceeding.</li> <li>• Findings of compliance/noncompliance.</li> <li>• Temporary restraining order (emergency action).</li> <li>• Injunction.</li> <li>• Suspend or revoke the license.</li> </ul>	<p><u>Conditional Use Permit</u> As a condition for land use approval, zoning and development ordinances could require new facilities to participate in the Metro licensing program. If facilities do not comply with the licensing agreement, the local government can find them in violation of their conditional use permit.</p> <p><u>Zoning</u> Typical land use zones outside Metro are Rural and Exclusive Farm Use zones (EFU). These zoning designations typically have restrictions on either feedstocks or product. These restrictions do not encourage the siting of municipal yard debris processing operations that sell a product to the public.</p> <ul style="list-style-type: none"> <li>• Rural zones - Facilities are subject to significant restrictions of the rural zone designation and other conditions of approval.</li> <li>• EFU zones - Facilities are not allowed in EFU zones, except when permitted by the local land use authority as a commercial activity in conjunction with a farm. Subject to statutory and Goal limits. Counties may define commercial activities more restrictively than state law.</li> </ul>	<p>Complaint driven process. Odor, air, and water quality issues. Enforcement includes a DEQ Compliance Order.</p> <p>DEQ has indicated support for the Metro licensing program and is willing to participate in a cooperative problem resolution process.</p>

**ATTACHMENT D**

MAIL THIS APPLICATION TO:

DATE RECEIVED BY METRO \_\_\_\_\_

Metro  
Regional Environmental Management  
600 N.E. Grand Avenue  
Portland, OR 97232-2736

**LICENSE APPLICATION FORM  
YARD DEBRIS PROCESSING AND/OR YARD DEBRIS RELOAD FACILITY**

Check all that apply:

Yard Debris Composting \_\_\_\_\_  
Yard Debris Reload \_\_\_\_\_  
Other (specify) \_\_\_\_\_  
\_\_\_\_\_

Date of Application: \_\_\_\_\_

**PART 1**

1. NAME OF FACILITY \_\_\_\_\_  
FACILITY ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. PROSPECTIVE LICENSEE

Public Agency \_\_\_\_\_ Private \_\_\_\_\_

Name of Licensee: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

**3. OWNER(S) OF PROPERTY**

Name \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

**4. SUBCONTRACTOR(S)**

Name, address and function of prospective franchisee's facility operation subcontractors, if any:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**5. SITE LEGAL DESCRIPTION**

(Include tax lot(s) descriptions, Section, Township and Range):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SECTION \_\_\_\_\_ TOWNSHIP \_\_\_\_\_ RANGE \_\_\_\_\_

**6. ZONING**

Present Land Use Zone: \_\_\_\_\_

Restrictions: \_\_\_\_\_

\_\_\_\_\_

7. Is a conditional use permit necessary for the facility?

Yes \_\_\_\_\_ No \_\_\_\_\_

If required, has the permit been obtained?

Yes \_\_\_\_\_ No \_\_\_\_\_

8. PUBLIC HEARING(S)

Date(s) and nature of Public Hearing(s) held or to be held, if any:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. PERMITS ISSUED OR APPLIED FOR

List name and number of all permits (i.e., DEQ Solid Waste Disposal Permit, Conditional Use Permit, National Pollution Discharge Elimination System Permit, Etc.), plus name, address and contact person at the agency responsible for issuing the permit(s).

Permit(s) Applied for:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Permit(s) Received:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**10. ESTIMATED QUANTITY OF YARD DEBRIS TO BE ACCEPTED**

Annually: \_\_\_\_\_ Cubic Yards      Daily: \_\_\_\_\_ Cubic Yards  
 Annually: \_\_\_\_\_ Tons (optional)      Daily: \_\_\_\_\_ Tons (optional)

**11. PUBLIC/COMMERCIAL OPERATIONS**

Will the facility be open to the public?      Yes \_\_\_\_\_      No \_\_\_\_\_

Will the facility be open to commercial solid waste collectors?      Yes \_\_\_\_\_      No \_\_\_\_\_

**12. OPERATING HOURS AND TRAFFIC VOLUME**

OPERATING HOURS	PUBLIC	COMMERCIAL
Hours Per Day		
Days Per Week		
Estimated Vehicles Per Day		

**13. Does the owner/operator of this facility own, operate, maintain, have a proprietary interest in, or is the owner financially associated with or subcontracting the operation of the facility to any individual, partnership or corporation involved in the business of collecting residential, commercial, industrial or demolition refuse within the boundary of Metro?**

Yes \_\_\_\_\_      No \_\_\_\_\_

**14. Will the facility be open to any solid waste collection companies not wholly owned by the franchisee that collect refuse within the boundary of Metro?**

Yes \_\_\_\_\_      No \_\_\_\_\_

**15. Will the facility be open to solid waste collection companies who collect outside the boundary of Metro other than the franchisee?**

Yes \_\_\_\_\_      No \_\_\_\_\_

**PART 2**

**GENERAL FACILITY DESIGN PLAN**

1. Describe how storm water is managed at the facility.

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Is precipitation run-on diverted around the processing area?

Yes \_\_\_\_\_ No \_\_\_\_\_

Describe \_\_\_\_\_

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Is run-off from the facility controlled?

Yes \_\_\_\_\_ No \_\_\_\_\_

Describe \_\_\_\_\_

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2. Describe any barriers that the facility has (or will have) to prevent unauthorized entry and dumping (fencing, gates, locks).

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3. Are there all weather access roads to the site?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Does (or will) the facility have scales?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. Does the facility have signs (at entrance, directing traffic flow, public information) ?

Yes \_\_\_\_\_ No \_\_\_\_\_

Please describe the location(s) and type of sign(s):

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6. What is the estimated capacity (cubic yards) of the facility storage area(s) for incoming yard debris waiting to be processed?

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7. What is the estimated capacity (cubic yards) for finished product storage?

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8. Please describe how you handle, store and remove hazardous or other non-permitted or non-compostable wastes delivered to the facility.

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**PART 3**

**GENERAL OPERATING PLAN**

1. Describe your methods for measuring and keeping records of incoming yard debris.

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2. How often are the facility grounds cleaned of litter?

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3. Describe how you encourage delivery of yard debris in covered loads.

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4. Describe how you control the types of materials you receive, and methods for removing, recovering and disposing of non-compostables.

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5. Where do you dispose of non-compostable wastes?

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6. Please give a general description of the steps you take to process yard debris (from delivery to end-product).

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7. What is the maximum length of time required to process each day's receipt of yard debris?

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8. How long does it typically take to process yard debris at your facility (from receipt to finished product)?

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9. If applicable, what are the dimensions of the windrows or piles that are typically constructed at your facility (length, width, height)?

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10. Describe how you control:

Noise:

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Vectors (insects, birds, rodents):

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Dust:

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Litter:

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11. Describe the fire prevention, protection and control measures used at the facility.

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12. Does (or will) the facility have legible sign(s) at public entrances that includes:

Name of facility?	Yes _____	No _____
Name of the operator?	Yes _____	No _____
Hours of operation?	Yes _____	No _____
List of materials that will and will not be accepted?	Yes _____	No _____
Schedule of charges?	Yes _____	No _____
Phone number in case of emergency?	Yes _____	No _____

13. Describe your methods for monitoring and adjusting the following (during processing):

Temperature:

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Oxygen levels

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Moisture levels:

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14. In general, what are your plans (existing or proposed) for marketing the finished product?

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**PART 4**

**ODOR MINIMIZATION PLAN**

1. Generally describe how you handle loads of bad smelling yard debris and grass clippings.

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2. Describe your procedures for receiving, recording and remedying odor complaints or odor problems at the facility.

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3. Describe your methods for minimizing and controlling odors at the facility.

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4. Do you have and use a readily available supply of bulking agents, additives or odor control agents?

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5. Describe your procedures for avoiding delay in processing yard debris during all weather conditions.

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6. Prior to turning or moving composted material, describe how you consider the following factors:

Time of day:

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Wind direction:

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Percent moisture:

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Estimated odor potential:

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Degree of maturity:

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## LIST OF ATTACHMENTS

1. ATTACHMENT A - SITE PLAN
2. ATTACHMENT B - INSURANCE
3. ATTACHMENT C - OTHER REQUIRED PERMITS

## 1. ATTACHMENT A -SITE PLAN

The application must contain maps, drawings or diagrams showing the location of the facility at a scale no smaller than one inch equals 100 feet. The following information must be provided:

- a) The boundaries of the facility;
- b) The boundaries of the composting area;
- c) The property boundaries, if different,
- d) The location of all buildings on the property and other pertinent information with respect to the operation of the facility (e.g. water supply, fencing, access roads, paved areas, etc.);
- e) The location and approximate dimensions of receiving, processing, curing, and storage areas for yard debris, end-product, and waste residuals; and
- f) The drainage patterns of the composting facility and surrounding areas. For example, the direction of both on-site and off-site drainage, as well as the location of any ditches, swales, berms, or other structures that exist or will be constructed to control runoff and leachate generated by the facility's operation.

*(The following additional information is required for all new and proposed yard debris processing and yard debris reload facilities:)*

- g) Landscape plan showing the location, size and type of plantings, fences, berms, and existing trees to remain and/or to be removed.
- h) Drawings of the site that indicate location of initial and permanent roads; buildings and equipment to be installed; sewer and water lines; and storm water system. The drawings shall show final grade contours (required for only new or relocating facilities).

## 2. ATTACHMENT "B" - INSURANCE

The application must contain a letter demonstrating that the applicant can obtain public liability insurance, including automotive coverage, in the amounts of not less than Five Hundred Thousand Dollars (\$500,000) for any number of claims arising out of a single accident or occurrence, Fifty Thousand Dollars (\$50,000) to any claimant for any number of claims for damage to or destruction of property, and One Hundred Thousand Dollars (\$100,000) to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by State Law for public contracts.

## 3. ATTACHMENT "C" - OTHER REQUIRED PERMITS

The application must contain one copy each of any required federal, state, county, city or other permits or licenses and one copy each of all correspondence pertaining to all such permits or licenses.

**LICENSE APPLICANT**

I hereby certify that the information contained in this application is true and correct to the best of my knowledge. I agree to notify Metro within 10 days of any change in the information submitted as a part of this application. I am enclosing the required Three Hundred Dollar (\$300.00) non-refundable license application fee. (Make checks payable to Metro.)

Signature and title of person completing this application:

SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_

DATE \_\_\_\_\_ PHONE \_\_\_\_\_

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## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 95-621A FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO ESTABLISH LICENSING STANDARDS FOR YARD DEBRIS PROCESSING AND YARD DEBRIS RELOAD FACILITIES.

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November 22, 1995

Presented by Bill Metzler

### **Proposed Action**

Adoption of Ordinance No. 95-621A to amend Metro Code Chapter 5.01 to establish licensing standards for yard debris processing and yard debris reload facilities.

### **Purpose**

Ordinance No. 95-621A is the result of a collaborative effort between Metro, local governments, yard debris processors and the DEQ. The licensing standards program is a framework for problem identification and resolution. Metro will:

1. Establish licensing standards that can be implemented on a regional level to help ensure the stability of the regional yard debris recycling system.
2. Assist local governments to manage the impacts yard debris processing facilities through a regional licensing program.
3. Minimize the potential for nuisance complaints. Increase the confidence that citizens and local governments have in yard debris processing facilities. Continued growth and greater development densities on surrounding land will lead to more public scrutiny and objections to these facilities.

### **Recommended Program Elements**

#### Metro

- Implement a licensing program for new and existing yard debris processing and yard debris reload facilities.
- Work with processors, local governments and the DEQ to ensure a coordinated program where information and technical assistance is shared in a cooperative problem solving manner. Technical assistance may include teams consisting of local government and Metro staff (e.g.,

land use and solid waste planners), DEQ, and others with special expertise to address facility concerns.

### Local Governments

- Amend zoning ordinances and development codes, as needed, to include clear and objective facility siting standards that do not effectively prohibit them.
- Amend zoning ordinances and development codes so that they include a condition of approval for obtaining a Metro license.
- Amend collection franchises requiring yard debris collected through curbside programs be delivered to licensed facilities.

### Processors

- Apply for a Metro license, make use of available technical assistance (if needed), and comply with licensing standards.
- Participate in program evaluation to ensure that the licensing program is effective.

### **Factual Background and Analysis**

On September 20, 1995, the Metro Solid Waste Advisory Committee (SWAC) unanimously approved the Licensing Standards for Yard Debris Processing and Yard Debris Reload Facilities (Attachment A), and voted to forward them to Council for consideration.

Yard debris recycling rates in the Metro region increased from 23% in 1987 to 70% in 1994 (115,000 tons). The tremendous success of yard debris recycling programs has created many opportunities as well as problems for the region. Nuisance impacts (e.g., odor, dust, noise) associated with these facilities have been exacerbated, causing heightened public awareness and concern. This has resulted in: 1) facilities being labeled as NIMBY's (not in my backyard) and LULU's (locally unwanted land uses), and 2) local government land use decisions that essentially prohibit the siting of these facilities, which are greatly needed and provide a valuable product and service to both the region and the individual communities they serve.

In 1994, at the request of Clackamas County, Metro convened a regional discussion group to discuss yard debris processing facilities, their associated impacts, and how Metro can help the region to solve these problems - before they get any worse. The regional discussion group consists of yard debris processors, local governments, haulers and the DEQ. The Licensing Standards for Yard Debris Processing and Reload Facilities and the licensing program proposal were developed with the assistance and guidance of this regional discussion group. Great emphasis was placed on solutions that would be effective as well as acceptable to the yard debris processing industry (see Attachments B and C for additional background and program

information). All of the provisions contained in the Licensing Standards for Yard Debris Processing and Reload Facilities have been codified and are embodied in the proposed amendments to Metro Code Chapter 5.01.

### Proposed Amendments to Metro Code Chapter 5.01

ORS Chapter 268 grants Metro the authority to license resource recovery sites or facilities. The proposed Code amendments establish licensing program standards for facilities that process and reload yard debris in the District. The regulations applying to yard debris facilities has been set out in great detail in the code. The code amendments related to the licensing of yard debris facilities establish clear and concise standards for a smoother administrative process. Facility operators will know, up front, what the licensing requirements are. A standard licensing application form (Attachment D), will be used in the process to help assess compliance with the licensing requirements.

Provisions are included for a local government that owns or operates a yard debris facility to administer and enforce facility standards through an intergovernmental agreement with Metro (Section 5.01.240 (b)). Public facilities should be accountable to residents in their communities through local elected officials.

There are two general categories of proposed Code amendments:

1. General licensing provisions. Adds language to the Code to define and include facility licensing. Includes amendments that set forth standard regulatory provisions that are (in most cases) not unique to yard debris facilities. These amendments are inserted within the existing franchise code language. Examples of this category are found in the amendments proposed for the following:

5.01.010 - Definitions through

5.01.180 - Enforcement of Franchise or License Provisions; Appeal

2. Licensing provisions specific to yard debris facilities. These include amendments that set forth provisions specifically applicable to the licensing of yard debris processing and reload facilities. These amendments are detailed and unique to the licensing of yard debris facilities. Examples of this category are found in the amendments proposed for the following:

Section 9 - Additional Provisions Relating to the Licensing of Yard Debris Processing and Yard Debris Reload Facilities:

5.01.230 - Scope of Yard Debris Facility Regulations through

5.01.380 General Conditions Relating to Yard Debris Facility Licensees

## **Budget Impacts**

There will be a slight increase in revenues from the annual licensing fee paid by the licensee of \$300 per year. There are currently 16 yard debris processors in the Metro region. The licensing program will bring in approximately \$4,800 in revenues annually.

During the initial implementation phase, Metro will retain a consultant to assist staff with facility operational issues that may require highly specialized expertise. This initial consultant contract is estimated at no more than \$7,000. After the initial facility licensing phase, the consultant will be retained for special circumstances (if required), this contract is estimated at no more than \$2,000 per year.

The annual licensing fee paid by the processors (which is similar to a franchise fee) will help defray some of the costs of the licensing program. Annual licensing fees are set by the Metro Council. However, the regional discussion group recommends that the fees be no more than \$300 per year. Keeping fees low is part of Metro's effort to help maintain the competitive viability of in-district facilities.

## **Executive Officer's Recommendation**

The Executive Officer recommends adoption of Ordinance No. 95-621A.

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**METRO**

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

# Memorandum

DATE: November 27, 1991

TO: Rena Cusma, Executive Officer

FROM: Susan Lee, Acting Clerk of the Council *sl*

RE: TRANSMITTAL OF ORDINANCE NOS. 91-437, 91-436A, 91-434A AND 91-438

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on November 26, 1991.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Tuesday, December 3, 1991. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

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I, *W. H. Kellum*, received this memo and true copies of Ordinance Nos. 91-437, 91-436A, 91-434A and 91-438 from the Clerk of the Council on *11-27-91*.

ORD.MEM